

BURT SMITH

REG. NO. 25379-380

P.O. BOX 5000

GREENVILLE, IL.

62246

IN THE
UNITED STATES DISTRICT COURT
ABILENE DIVISION

BURT SMITH,

MOVANT - PETITIONER,

CIVIL ACTION NO.

VS.

ROLLING PLAINS DTN CTR. CT, AL., **1-20 CV-182 H**

RESPONDENT - DEFENDANT,

COMPLAINT

I.

JURISDICTION AND VENUE

1. THIS IS A CIVIL ACTION AUTHORIZED BY 42 USC, SECT. 1983 TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW, OR/ OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES. THE COURT HAS JURISDICTION UNDER 28 USC, SECT. 1331 AND 1343(a)(3).

PLAINTIFF BURT SMITH SEEKS DECLARATORY RELIEF PURSUANT TO 28 USC, SECT. 2201 AND 2202. MR. SMITH CLAIMS FOR INJUNCTIVE RELIEF ARE AUTHORIZED BY 28 USC, SECT. 2283 AND 2284 AND RULE 65(a) OF THE FED. R. CIV. P..

2. THE U.S.D.C. N.D. TEXAS IS AN APPROPRIATE VENUE UNDER 28 USC, SECT. 1391 (b)(2) BECAUSE IT IS WHERE THE EVENTS

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GIVING RISE TO THIS CLAIM OCCURRED.

II.

PLAINTIFF-MOVANT

3. PLAINTIFF, MR. SMITH IS AND WAS AT ALL TIMES MENTIONED HEREIN A FEDERAL DETAINEE/PRISONER IN U.S. MARSHALL'S CUSTODY HOUSED AT ROLLING PLAINS DETENTION CENTER IN OR AROUND ABILENE TEXAS MAY 12, 2020.

4. PLAINTIFF MR. SMITH IS AND WAS AT ALL TIMES MENTIONED HEREIN IN UNITED STATES CUSTODY PENDING FEDERAL COURT PROCEEDINGS. ROLLING PLAINS DTN. CTR. IS APPOINTED/DEPUTIZED BY AND THROUGH THE UNITED STATES TO HOUSE/DETAIN FEDERAL DEFENDANT(S). I.E. MR. SMITH.

III.

DEFENDANTS-RESPONDENTS

5. DEFENDANT, I.E. DET. WARDEN BENNET IS LEGALLY RESPONSIBLE FOR THE OPERATION OF ROLLING PLAINS DTN. CTR. AND THE WELFARE OF ALL INMATES HOUSED AND DETAINED THERE, IN OR AROUND ABILENE, TX..

6. DEFENDANT, I.E. DET. HSA SHAGINAW, (HSA) HEALTH SERVICE ADMINISTRATOR AT ROLLING PLAINS DTN. CTR. IS RESPONSIBLE FOR INMATES HEALTH CARE, I.E. HEALTH CARE PROVIDER, IN OR AROUND ABILENE, TX..

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7. DEFENDANT, i.e. DFT. RN KING IS REGISTERED NURSE AT ROLLING PLAINS DTN. CTR. IN OR AROUND ABILENE, TX..

8. DEFENDANT, i.e. DFT. JANE DOE AT HASKELL MEMORIAL HOSPITAL, AN EMPLOYEE AT EMERGENCY ROOM IN OR AROUND ABILENE, TX..

9. EACH DFT. IS SUED INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY OR HER OFFICIAL CAPACITY. AT ALL TIMES MENTIONED IN THIS COMPLAINT EACH DFT. ACTED IN COLOR OF STATE LAW.

IV. FACTS

10. ON MAY 12 PLAINTIFF SMITH COMPLAINED TO LT. BLACKBURN [SMITH HAD CHEST PAINS] AND WAS IN SEVERE "PAIN", AND HAD TROUBLE BREATHING.

11. SMITH WAS ESCORTED TO LT'S OFFICE AND MEDICAL WAS SUMMONED AND CONDUCTED BLOOD PRESSURE TEST.

12. SMITH WAS TOLD THERE WAS NOTHING WRONG AND ESCORTED/RETURNED TO HIS ASSIGNED CELL.

13. MAY 13, SMITH COMPLAINED TO (CO) CORRECTIONAL OFFICER NUMEROUS OCCASIONS HE HAD SEVERE CHEST PAINS. (CO) CONTACTED MEDICAL... MEDICAL NEVER RESPONDED.

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14. MAY 14, SMITH ALERTED (CO) NUMEROUS TIMES HE HAD CHEST PAINS AND HAVING BREATHING PROBLEMS.

15. (CO) ESCORTED SMITH TO MEDICAL DPT. AND SMITH FAINTED.

16. MEDICAL STAFF WAS SUMMONED AND BROUGHT WHEEL CHAIR TO SMITH AND WHEELED SMITH TO ROLLING PLAINS DTN. CTR. MEDICAL DPT..

17. BLOOD PRESSURE ANALYSIS WAS CONDUCTED AND READ SMITH'S BLOOD PRESSURE NORMAL.

18. I WAS TOLD I WOULD BE KEPT IN AN OBSERVATION CELL OVERNIGHT AND SEEN BY A DOCTOR ON MAY 15, AND THE NURSE REQUESTED CHEST X-RAY.

19. MAY 16, EARLY MORNING A.M. HOURS COMPLAINED TO (CO) CHEST PAINS. NO RESPONSE.

20. MAY 17, COMPLAINED TO (CO) HAD CHEST PAINS AND BREATHING PROBLEMS. MEDICAL CONDUCTED BLOOD PRESSURE AND INDICATED WAS HIGH BLOOD PRESSURE. NO MEDICAL PROVIDED, DENIED ACCESS TO HOSPITAL EMERGENCY ROOM.

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21. MAY 18, COMPLAINED TO (CO) SMITH HAD CHEST PAINS AND TROUBLE BREATHING. NO RESPONSE FROM MEDICAL,

22. MAY 19, 05:00 A.M. AWAKEN WITH SEVERE CHEST PAINS AND BREATHING ISSUES.

23. ESCORTED TO ROLLING PLAINS DET. CTR. MEDICAL DPT.. BLOOD PRESSURE AND AN EKG WAS PERFORMED. WAITED IN MEDICAL DPT. FOR 5 1/2 HOURS.

24. AFTER 5 1/2 HOURS WAITING IN MEDICAL DPT. SMITH WAS TRANSPORTED TO LOCAL HOSPITAL AND CONDUCTED AX X-RAY.

25. SMITH WAS RETURNED TO DTN. CTR..

26. MAY 20, 12:30 A.M. COMPLAINED TO (CO) CHEST AND BREATHING PAINS AND ESCORTED TO DTN. MEDICAL DPT..

HSA SHABINAW CALLED MASKELL MEMORIAL HOSPITAL AND TALKED WITH AN REPRESENTATIVE. (HSA) GAVE HER INSTRUCTIONS ON HOW TO LOOK UP/RESEARCH RESULTS ON SMITH'S X-RAYS.

HOSPITAL (REP) REPRESENTATIVE INSTRUCTED (HSA) IT WAS LUNG INFLAMMATION OR THE MUSCLE WALL ON SMITH'S RIBS.

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27. HSA SHAGINAW THEN INSTRUCTED RN KING WHAT SMITH HAD/SYMPTOMS AND PREPARED A SHOT UNKNOWN AND ADMINISTERED 2 UNKNOWN PILLS/PRESCRIPTION(S) AND ESCORTED/RETURNED TO MY ASSIGNED CELL AT ROLLING PLAINS DTN. LTR..

28. AS I WAS WALKING TO MY ASSIGNED HOUSING UNIT, I COULD NOT BARELY WALK DUE TO BEING IN PAIN.

29. (CO) MRS. PEREZ ASKED IF I NEEDED AN WHEEL CHAIR, AND I (SMITH) STATED...YES.

30. MAY 20, CHEST PAINS AND BREATHING ISSUES CONTINUED AND WORSENER.

31. MAY 21, 9:30-6:00 A.M.
MR. SMITH WAS FOUND "UNCONCIOUS" IN HIS ASSIGNED HOUSING UNIT AND TRANSPORTED TO EMERGENCY ROOM AND AN (CT SCAN) INDICATED MR. SMITH SUFFERED FROM [INFLAMATION ON THE HEART... CALLED PERICARDITIS].

IV.

EXHAUSTION OF LEGAL REMEDIES

32. PLAINTIFF, MR. SMITH EXHAUSTED HIS REMEDIES, AND IS NO LONGER DETAINED IN STATE CUSTODY PURSUANT 42 USC, SECT. 1997(e).

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33. MR. SMITH WAS TRANSFERRED FROM STATE DETENTION TO FEDERAL BUREAU OF PRISONS FCI GREENVILLE IL, P.O. BOX 5000; GREENVILLE, IL. 62246.

34. MR. SMITH CANNOT NO LONGER PURSUE EXHAUSTION REMEDY(S) PURSUANT TO TITLE 42 USC, SECT. 1997 (e).

VI.

LEGAL CLAIMS

35. PLAINTIFF REALIGNE AND INCORPORATE PARAGRAPHS 1-34.

36. DFT. "BENNET - WARDEN" IS RESPONSIBLE FOR MR. SMITH'S HEALTH WHILE IN CUSTODY OF ROLLING PLAINS DTN. CTR.,

37. DFT. "RN KING" FAILED TO PROVIDE ADEQUATE HEALTH CARE AND MONITOR MR. SMITH'S HEALTH ISSUES DENIED MR. SMITH PROPER RESPONSE FROM HEALTH COMPLAINTS.

38. DFT. "HSA SHAGINAW" FAILED TO PROVIDE ADEQUATE HEALTH CARE AND MONITOR MR. SMITH'S HEALTH/VITALS. AND DENIED MR. SMITH EMERGENCY CARE FROM MAY 12, THROUGH MAY 21, 2020.

39. PLAINTIFF MR. SMITH HAS NO PLAIN, ADEQUATE OR COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED HEREIN.

PLAINTIFF HAS BEEN AND WILL CONTINUE TO BE IRREPARABLY INJURED BY THE ... CONDUCT OF THE DEFENDANT(S) UNLESS THIS COURT GRANTS DECLARATORY AND INJUNCTIVE RELIEF WHICH PLAINTIFF SEEKS.

VII.

PRAYER FOR RELIEF

WHEREFORE, MR. SMITH RESPECTFULLY PRAY THAT THIS COURT ENTER JUDGMENT:-

40. GRANTING SMITH A DECLARATION THAT THE ACTS AND OMISSIONS DESCRIBED HEREIN VIOLATE HIS RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES, AND

41. GRANTING SMITH COMPENSATORY DAMAGES IN THE AMOUNT OF \$ 150,000.00 AGAINST EACH DEFENDANT, JOINTLY AND SEVERALLY.

42. PLAINTIFF SMITH SEEKS COMPENSATORY DAMAGES \$ 75,000.00 AGAINST EACH DEFENDANT.

43. PLAINTIFF SEEKS PUNITIVE DAMAGES IN THE AMOUNT \$ 75,000.00. PLAINTIFF SEEKS THESE DAMAGES AGAINST EACH DEFENDANT, JOINTLY AND SEVERALLY.

44. PLAINTIFF ALSO SEEKS A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY.

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45. PLAINTIFF SEEKS RECOVERY AND COSTS OF THIS SUIT, INCLUDING ANY ADDITIONAL ATTORNEY(S) COSTS.

46. ANY ADDITIONAL RELIEF THE COURT DEEMS APPROPRIATE, JUST, PROPER AND EQUITABLE.

DATE: _____,

RESPECTFULLY SUBMITTED,

BURT SMITH

25379-380

P.O. BOX 5000

GREENVILLE, IL. 62246

VERIFICATION

I HAVE READ THE FOREGOING COMPLAINT AND HEREBY VERIFY THAT THE MATTERS... ALLEGED THEREIN ARE TRUE, EXCEPT AS TO MATTERS ALLEGED ON INFORMATION AND BELIEF, AND, AS TO THOSE, I BELIEVE THEM TRUE AND CORRECT. I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT FCI GREENVILLE IL.
ON 26th DAY OF August,
TWO-THOUSAND AND TWENTY.

x Burt A. Smith
BURT SMITH

Burt A. Smith # 25379-380
 P.O. Box 5000
 Federal Correctional Institution
 Greenville, IL 62246

SAINT LOUIS

RECEIVED

28 AUG 2020

SEP - 1 2020

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

United States District Court Northern District of Texas
 341 Pine St - Room 2008
 Abilene, Texas 79601

Legal

79601-592808